

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF ALABAMA**

IN RE:	)	
	)	
CHERYL H. FRAZIER	)	CIVIL ACTION NUMBER: 07-10074
XXX-XX-7509	)	CHAPTER 13
	)	
DEBTOR,	)	
<hr/>		
CHERYL H. FRAZIER,	)	1:07MC3379-MHT
	)	
Plaintiff,	)	
	)	
v.	)	ADV. PROC. NO. 07-01112
	)	
ACCREDITED HOME LENDERS, INC.,)	)	
	)	
Defendant.	)	

**MOTION FOR WITHDRAWAL OF REFERENCE**

COMES NOW the Defendant Accredited Home Lenders, Inc. (“AHL”), by and through its counsel of record, and hereby moves this Court to withdraw the reference of 28 U.S.C § 157(a) pursuant to 28 U.S.C. § 157(d), and in support of this motion would show as follows:

1. This adversary proceeding was commenced by the Plaintiff/Debtor Cheryl H. Frazier (“Frazier”) on or about September 7, 2007. The complaint alleges AHL has violated provisions of the Truth-In-Lending Act (“TILA”), 15 U.S.C. § 1601 et seq., and the Real Estate Settlement Practices Act (“RESPA”), 12 U.S.C. § 2601 et seq. Frazier seeks monetary damages, attorney’s fees and rescission.

2. 28 U.S.C. § 157(b)(1) provides that bankruptcy judges “may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under

title 11, referred under subsection (a) of this section . . . .” 28 U.S.C. s 157(b)(2) includes a non-exclusive listing of core proceedings specifically within the jurisdiction of the bankruptcy court.

3. Pursuant to 28 U.S.C. § 157(d), the district court has the discretion to withdraw a proceeding from the bankruptcy court upon a showing of cause. Section 157(d) further provides that “[t]he district court **shall** on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.” (emphasis added)

4. The Court is required to withdraw the reference in this case because the resolution of Frazier’s claims requires consideration of two non-bankruptcy related federal statutes. Moreover, even were the Court not required to withdraw the reference pursuant to § 157(d)’s mandatory withdrawal provision, withdrawal is compelled by the discretionary withdrawal provisions of § 157(d). This adversary proceeding is a non-core action, and the Court’s interests in promoting the efficient use of judicial resources and the resources of the parties are best served by the timely withdrawal of this matter and its orderly administration in district court.

5. The bankruptcy Court has continued the initial scheduling conference until March 17, 2008. This motion has been timely filed, and the parties will therefore suffer no prejudice by the requested withdrawal.

6. Further, upon withdrawal of the reference, the parties move the Court to hold a status conference so that this case can be fully discussed with the Court, including the parties’ intentions and other scheduling matters.

WHEREFORE, AHL moves this Court to withdraw the reference of 28 U.S.C § 157(a) and to transfer this adversary proceeding to this Court.

Respectfully submitted

ACCREDITED HOME LENDERS, INC.

s/ J. Douglas Minor, Jr.

J. DOUGLAS MINOR, JR. [MSB #10045]

OF COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Earl P. Underwood, Jr.  
Law Offices of Earl P. Underwood, Jr.  
P.O. Box 969  
21 South Section Street  
Fairhope, AL 36533-0969

Respectfully submitted,

s/ J. Douglas Minor, Jr. \_\_\_\_\_



Digitally signed by  
Richard Oda  
DN: c=US, o=United  
States Bankruptcy  
Court, ou=summons-  
seal, cn=Richard Oda  
Date: 2007.12.10  
11:07:46 -06'00'

ToDistrict

**U.S. Bankruptcy Court  
MIDDLE DISTRICT OF ALABAMA (Dothan)  
Adversary Proceeding #: 07-01112  
Internal Use Only**

1:07MC3379-MHT

*Assigned to:* Dwight H. Williams Jr.

*Date Filed:* 09/07/07

*Related BK Case:* 07-10074 (Associated Cases)

*Related BK Title:* Cheryl H Frazier

*Related BK Chapter:* 13

*Demand:*

*Nature[s] of* 14 Recovery of money/property -  
*Suit:* other

**Plaintiff**

**Cheryl H Frazier**  
105 TV Road  
Dothan, AL 36301  
SSN: [REDACTED]

represented by **Earl P Underwood, Jr**  
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V.

**Defendant**

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Filing Date	#	Docket Text
09/07/2007	 <u>1</u>	Adversary case 07-01112. (14 (Recovery of money/property - other)): Complaint against Accredited Home Lenders, Inc.. -NO FEE DUE- Filed by Cheryl H Frazier. (Attachments: # <u>1</u> Exhibit Summons# <u>2</u> Exhibit A) (Underwood, Earl) (Entered: 09/07/2007)
09/10/2007	 <u>2</u>	Clerk's Notice of Deficiency: Adversary Cover Sheet is now required and due within 15 days. (non-image entry). For information regarding the Adversary Cover Sheet, please visit our website at <a href="http://www.almb.uscourts.gov">www.almb.uscourts.gov</a> (DS, ) (Entered: 09/10/2007)
09/10/2007		Flags: AwCAact21 flag(s) removed. No filing fee required - filed by debtor. New Case Received and Reviewed for Accuracy. (DS, ) (Entered: 09/10/2007)
09/10/2007	 <u>3</u>	Summons Issued to Attorney for Plaintiff to be served on Defendant Accredited Home Lenders, Inc. Date Issued 9/10/2007, Answer Due 10/10/2007. Execution of Summons to be done by 9/20/2007. (DS, ) (Entered: 09/10/2007)
09/10/2007	 <u>4</u>	Submission of Documents: <i>Adversary Proceeding Cover Sheet</i> Filed by Earl P Underwood Jr on behalf of Cheryl H Frazier. (Underwood, Earl) (Entered: 09/10/2007)

09/12/2007	 <u>5</u>	BNC Certificate of Service - See Image Attached - (RE: related document(s) <u>3</u> Summons Issued). No. of Notices: 1. Service Date 09/12/2007. (Admin.) (Entered: 09/13/2007)
09/21/2007	 <u>6</u>	10 days have passed since the issuance of summons. Notice is hereby given that pursuant to Fed. R. Bankr. Proc. 7004(e), the summons issued is not serviceable. Upon Plaintiffs request, a new summons will be issued by the Clerk. (RE: related document(s) <u>3</u> Summons Issued). (DW, ) (Entered: 09/21/2007)
10/09/2007	 <u>7</u>	Motion to Extend Time Filed by Robert E Poundstone IV on behalf of Accredited Home Lenders, Inc.. (Poundstone, Robert) (Entered: 10/09/2007)
10/10/2007	 <u>8</u>	Order Granting Defendant's Motion to Extend Time (Related Doc # <u>7</u> ) Entered On 10/10/2007. (DW, ) (Entered: 10/10/2007)
10/17/2007	 <u>9</u>	Answer to Complaint Filed by Robert E Poundstone IV on behalf of Accredited Home Lenders, Inc.. (Poundstone, Robert) (Entered: 10/17/2007)
10/18/2007	 <u>10</u>	Scheduling Order Entered On 10/18/2007 (RE: related document(s) <u>1</u> Complaint filed by Plaintiff Cheryl H Frazier). EACH PARTY DESIRING TO BE HEARD MUST PROVIDE THE COURT IN ADVANCE WITH A TELEPHONE NUMBER TO BE USED BY CALLING 334-954-3845 OR 3890. Scheduling Conference set for 11/5/2007 at 10:15 AM at Telephone Hearing. (RLW, ) (Entered: 10/18/2007)
10/20/2007	 <u>11</u>	BNC Certificate of Service - See Image Attached - (RE: related document(s) <u>10</u> Scheduling Order, ). No. of Notices: 2. Service Date 10/20/2007. (Admin.) (Entered: 10/21/2007)
10/30/2007	 <u>12</u>	Motion to Appear Pro Hac Vice Filed by Robert E

		Poundstone IV on behalf of Accredited Home Lenders, Inc.. (Attachments: # <u>1</u> Exhibit 1) (Poundstone, Robert) (Entered: 10/30/2007)
10/30/2007	 <u>13</u>	Order Granting Motion of James D. Minor, Jr. to Appear Pro Hac Vice on behalf of Accredited Home Lenders, Inc. /s/ Dwight H. Williams, Jr. (Related Doc # <u>12</u> ) Entered On 10/30/2007. (AW, ) Modified on 10/30/2007 (AW, ). (Entered: 10/30/2007)
11/05/2007	 <u>14</u>	Scheduling Conference Hearing Continued on matter filed by Earl P Underwood Jr of Law Offices of Earl P. Underwood, Jr. on behalf of Cheryl H Frazier (RE: related document(s) <u>1</u> Complaint). Hearing scheduled for 3/17/2008 at 10:15 AM at Telephone Hearing. (JV, ) (Entered: 11/05/2007)
12/07/2007	 <u>15</u>	Motion for Withdrawal of Reference . Fee Amount \$150. Filed by Robert E Poundstone IV on behalf of Accredited Home Lenders, Inc.. (Poundstone, Robert) (Entered: 12/07/2007)
12/07/2007	 <u>16</u>	Supporting Motion <i>to Motion for Withdrawal of Reference</i> Filed by Robert E Poundstone IV on behalf of Accredited Home Lenders, Inc. (RE: related document(s) <u>15</u> Motion for Withdrawal of Reference filed by Defendant Accredited Home Lenders, Inc.). (Poundstone, Robert) (Entered: 12/07/2007)
12/10/2007	 <u>17</u>	Clerk's Certificate (E-mailed to U.S. District Court) (RE: related document(s) <u>16</u> Motion, filed by Defendant Accredited Home Lenders, Inc., <u>15</u> Motion for Withdrawal of Reference filed by Defendant Accredited Home Lenders, Inc.). (DS, ) (Entered: 12/10/2007)
12/10/2007	<u>18</u>	Receipt of Motion for Withdrawal of Reference(07-01112) [motion,mwdref] ( 150.00) filing fee. Receipt number 2557600, amount \$ 150.00. (U.S. Treasury) (Entered: 12/10/2007)